IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 526 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KETAN JAYANTILAL KARANI - Applicant(s)
Versus
THE STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR HR PRAJAPATI for Applicant(s) : 1,
MR DIPEN DESAI, APP for Respondent(s) : 1,
MR ND GOHIL for Respondent(s) : 2

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 23/10/2007

ORAL JUDGMENT

Learned advocate Shri Prajapati for the petitioner submitted that petitioner had resigned as Director of the Company on 2.2.98. This was also

conveyed to the Registrar of Companies immediately in proper proforma. The general meeting of the Company took place on 30th September, 1998. It is the allegation in the complaint that returns of the Company were not filed within two months from the date of the general meeting. He submitted that the petitioner, therefore, cannot be prosecuted for the said offence. He pointed out that though the complaint was filed in the year 1999, summons was issued only in the year 2004 which the petitioner received in the year 2005 upon which he approached this Court.

2. In support of his contention, Shri Prajapati placed reliance on the decision of the Apex Court in the case of S.M.S.Pharmaceuticals Ltd. v. Neeta Bhalla, (2005) 8 SCC 89 and on the decision of this Court in the case of Dr.Rajan Sanatkumar Joshi v. R.G.Shah, 2007 (1) GLH 653.

3. When the dates mentioned by the counsel for the petitioner are not really in dispute, short question is whether the petitioner can be prosecuted for not being able to meet the deadline which arrived long after he resigned from the Company. The resignation of the petitioner was duly recorded with the Registrar of Companies also. Long time thereafter, the annual general meeting of the Company took place. Within two months thereafter, the Company was required to file its returns. Since the petitioner had ceased to be the Director of the

Company long before the date arrived, in the facts of the present case, I do not find that the complaint against the petitioner can proceed.

4. In the result, by allowing this petition, complaint dated 13.7.99 at Annexure A qua the petitioner is quashed. Rule is made absolute.

(Akil Kureshi, J.)

(vjn)